



**International covenant
on civil and
political rights**

Distr.
GENERAL

CCPR/C/SR.1944
23 October 2001

Original: ENGLISH

HUMAN RIGHTS COMMITTEE

Seventy-second session

SUMMARY RECORD OF THE 1944th MEETING

Held at the Palais Wilson, Geneva,
on Thursday, 19 July 2001 at 3 p.m.

Chairperson: Mr. BHAGWATI

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 40 OF THE COVENANT (continued)

Second periodic report of the Democratic People's Republic of Korea

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GE.01-43619 (E) 230701 231001

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 40 OF THE COVENANT (agenda item 5) (continued)

Second periodic report of the Democratic People's Republic of Korea
(CCPR/C/PRK/2000/2; CCPR/C/72/L/PRK; HRI/CORE/1/Add.108)

1. At the invitation of the Chairperson, the members of the delegation of the Democratic People's Republic of Korea took places at the Committee table.
2. The CHAIRPERSON invited the head of the delegation to make an introductory statement to the Committee.
3. Mr. RI Chol (Democratic People's Republic of Korea) said that the guiding principle of his country's approach to human rights was the Juche. According to that philosophy, human beings were the masters of their own destiny, and were responsible for solving their own problems to the best of their ability, remembering that their efforts must always contribute to the good of the people. His Government believed that the will of the people was the best possible guide to human rights, and its approach embodied that will.
4. The laws of his country did not permit inequality, instability, exploitation and other social evils. Every citizen was entitled to free education and health care, as well as adequate housing and employment in accordance with his or her abilities. Society paid particular attention to protecting women and children, the elderly and the disabled. Social problems such as unemployment, illiteracy, homelessness, violence, drug abuse and prostitution were unknown in the Democratic People's Republic of Korea (DPRK). He was extremely proud of what his country had achieved through the pursuit of popular policies since the founding of the Republic.
5. Nevertheless, hostile forces had raised significant barriers to the full enjoyment of human rights in the DPRK, in particular, through unilateral political pressure, reckless military threats and economic sanctions designed to suffocate the country and its people. Those difficulties had been exacerbated by the disappearance of his country's major trading partner, and by successive natural disasters. His people had rallied round their leader, Kim Jong Il, and the Government had redoubled its efforts to promote and protect human rights.
6. Since the consideration of its initial report, the DPRK had amended or supplemented its Constitution on two occasions, adopted 49 new laws and amended or supplemented 11 major laws with a view to improving the legal framework for human rights. The recently enacted Treaty Law provided that international agreements ratified by the State would have the same status as domestic legislation. His Government had translated, published and given wide distribution to international instruments including the Covenant on Civil and Political Rights, and had organized training courses to ensure that law enforcement officials were fully acquainted with their requirements.

7. The right of peoples to self-determination was a prerequisite for the enjoyment of human rights. The Constitution provided that the sovereignty of the State rested with the workers, peasants, working intellectuals and all other working people. They had freely chosen the system of Korean-style socialism because of its basis in equality and freedom from oppression.
8. The Government had made it a priority to protect the right to life by pursuing efforts to prevent the threat of war on the Korean peninsula. It had enacted the Law on Environmental Protection in 1986, and had taken a series of practical measures to prevent pollution. It had also consolidated legislation on public health by enacting laws such as the Law on Medical Care, the Law on the Prevention of Infectious Diseases and the Law on the Administration of Medical Supplies. It had significantly reduced the scope of the death penalty, by withdrawing it from 32 out of 37 articles of the Criminal Code, and by raising the minimum age for its application to 18. The use of weapons by security officers had been restricted by implementation of a new Law on Control for Public Security.
9. The Criminal Procedures Act had been amended and supplemented in January 1992, enhancing the protection of human rights in criminal proceedings, including the reinforcement of the right to legal counsel. The new Lawyers' Act, adopted in December 1994, included extensive provisions on the duties and procedures of the legal profession. The revised Regulations on the administration of detention chambers and reform institutions were consistent with the Standard Minimum Rules for the Treatment of Prisoners, and ensured that the rights of detainees were fully protected. Regulations on criminal compensation had been enacted to compensate the victims of wrongful arrest or conviction.
10. A new Family Law had been adopted which drew on measures of protection for the family developed over previous years. His Government strongly believed that the future of the nation depended on education. Consequently, it had made great efforts to develop pre-school education, as well as to consolidate the provision of 11 years of free and compulsory education. The Constitution guaranteed equality between men and women in all areas of life, which included the right to vote and to stand for election. Special protection was afforded to mothers and children, including guaranteed maternity leave, the reduction of working hours for mothers with several children, the extension of the network of maternity hospitals and other policies coming within the scope of the Labour Law and the Public Health Law.
11. Every citizen was entitled to participate in politics through the people's representative bodies and assemblies, including the Supreme People's Assembly. The Elections Law of 1992 elaborated on the constitutional provision that all citizens aged 17 or over had the right to participate in and stand for election, irrespective of sex, race, occupation, length of residence, property status, education, party affiliation, political views or religion. Elections were conducted on the basis of universal, equal and direct suffrage by secret ballot. Pursuant to the regulations on the selection of public servants, anyone with a determination to serve the people and sufficient ability was entitled to work as a public official.
12. The division of the nation imposed by external forces was a huge obstacle to his Government's human rights objectives. The political and military confrontation between north and south, which had lasted for over half a century, had caused incalculable damage to the people's enjoyment of human rights and unnecessary confrontation in international forums.

However, the historic Pyongyang meeting and the North-South Joint Declaration of 15 June 2000 had led to a thaw in relations and opened the way to exchange and cooperation. In the future, there would be an opportunity for further dialogue and contact in the political, military, economic, cultural and humanitarian fields. Those developments demonstrated that the north and south of Korea could resolve their difficulties and achieve national reunification for themselves. He asked the Committee for its support in his country's efforts to seek reunification.

13. His Government attached considerable importance to the dialogue with United Nations treaty monitoring bodies. It had recently acceded to the Convention on the Elimination of All Forms of Discrimination against Women, and had drafted its second periodic report pursuant to the Convention on the Rights of the Child. He was looking forward to a constructive dialogue with the Committee.

14. The CHAIRPERSON invited the delegation to reply to questions 1 to 14 of the list of issues, relating to the status of the Covenant in the courts; the statement that "the State does not tolerate any interpretation that restricts the rights and freedoms set forth in the Covenant"; ratification of the first Optional Protocol to the Covenant; the legal status of non-governmental organizations (NGOs); the right to self-determination under article 1 of the Covenant; protection of the right to life, including the right to adequate food; alleged instances of enforced or involuntary disappearances of persons; the application of the death penalty; alleged acts of torture and ill-treatment; confinement in "reform institutions" and "prison camps"; forced or compulsory labour in public works projects; pre-trial and preventive detention; permission to travel within and outside the country; and the treatment of citizens who were forcibly returned to the country.

15. Mr. SIM Hyong Il (Democratic People's Republic of Korea), in reply to question 1 (status of the Covenant), said that international agreements had the same status as domestic law, and if a provision of the Covenant came into conflict with domestic legislation, the former would prevail. For example, under the previous Criminal Code, 17 years had been the minimum age for the death penalty, although courts had directly applied the provisions of the Covenant to establish that age at 18 years, before the Code had eventually been changed to bring it into line with the Covenant. The pre-eminence of the Covenant was established in the Treaty Law, the Civil Law, the Law on External Civil Relations, the Law on Foreign Investment Business Enterprise, the Customs Law and the Copyright Law.

16. In reply to question 2 (interpretation of the Covenant), he said that in order to prevent arbitrary interpretations of the Covenant that might violate its fundamental spirit and requirements, the State had bestowed responsibility for matters of interpretation on its most senior body, the Presidium of the Supreme People's Assembly. Domestic laws prohibited courts and administrative bodies from restricting or derogating from the rights and freedoms protected by the Covenant.

17. Replying to question 3 concerning ratification of the first Optional Protocol, he said that a lively debate on the subject had taken place in the country. Those in favour of proceeding with ratification held that there was no reason for the People's Republic not to do so, since it had ratified the Covenant without reservation and was bringing domestic legislation into line with its provisions. Opponents of ratification argued that a well-organized and rigorous complaints and

petitions system already existed in the country and that the competent public bodies were required to deal impartially with all issues raised. Hence there was no need to have complaints considered abroad. No final decision had been taken on the subject.

18. Replying to question 4 concerning NGOs and procedures for dealing with complaints and petitions, he said that prior to the 1990s public organizations such as the Federation of Trade Unions, the Union of Agricultural Working People, the Youth League and the Women's Union had protected and promoted the human rights of their members. The Bar Association and the Democratic Lawyers' Association had focused exclusively on human rights. In the 1990s, with the increased attention paid to human rights and compliance with newly ratified international instruments, a number of independent human rights organizations such as the Institute for Research on Human Rights, the Association for Assisting Handicapped Persons and the Committee to Demand Compensation for Army Comfort Women and Victims of the Pacific War had been established. In the light of research findings and on the basis of collective discussion and decision-making, they submitted legislative recommendations, administrative proposals and plans for raising individual human rights issues with the highest organs of the State and other competent bodies.

19. The Law on Complaints and Petitions established procedures for the submission, reception, registration, examination and disposal of complaints and petitions, laid down guidelines for State monitoring of the system and established guarantees of effective implementation. All citizens were free to lodge complaints or petitions directly or through a guardian or attorney, orally or in writing, with any institution, enterprise, organization or official, including the highest organs of State. Every grievance was subjected to a careful and impartial examination, and officials were required to respond within a prescribed period. The central complaints authority supervised local units, ensuring that no pressure was exerted on complainants and that their complaints were not dealt with in a random way. Anyone failing to comply with instructions was subjected to criticism, disciplined or prosecuted, depending on the gravity of the offence.

20. Replying to question 5 concerning article 1 of the Covenant, he said that the social and political system of the Democratic People's Republic of Korea was the embodiment of the will of the masses and the ideal of "belief in the people as in God". Following the country's liberation from Japanese colonial rule, people's committees had been set up by popular initiative as the cornerstone of the democratic system. Feudalism had given way to a system of land reform under which the land was redistributed among the peasants, who accounted for over 85 per cent of the population. The Law on Nationalization of Major Industries, the Law on Gender Equality and other laws to ensure democratization had been enacted. The Democratic People's Republic of Korea (DPRK) had been founded in 1948 in response to the people's will expressed in a general election. But the country had been impoverished by the Korean War and its small-scale private economy had been unfit for sustainable development. A unique socialist system based on cooperative farming and the socialization of private trade and manufacture had therefore been established - not by application of a ready-made formula but in response to the people's choice based on mature consideration.

21. Replying to question 6 concerning the right to life and measures taken to meet the basic needs of the population, he said that the State had taken vigorous action to deal with the consequences of successive natural disasters, to revive the economy and to ensure an adequate food supply, *inter alia* through the seed revolution, potato farming, "two crops a year" farming, the promotion of land levelling and zoning projects, a campaign to breed grass-eating livestock such as rabbits and goats, and the establishment or modernization of fish, chicken and even ostrich farms. Basic foodstuff and light industry factories supplying basic consumer goods, foodstuffs and other necessities had been reorganized to ensure that they could operate at full capacity.
22. Tens of thousands of modern dwellings and service facilities were under construction to improve living conditions. To address the problem of energy shortages, small, medium and large-scale hydroelectric power plants were being constructed.
23. Replying to question 7 on alleged instances of disappearances, he said that baseless rumours of the disappearance or detention of public officials had been spread outside the country by hostile elements when the officials' names failed to appear in newspaper reports for some time. The phenomenon of enforced or involuntary disappearances did not exist in the DPRK. People had only been known to disappear in the aftermath of floods or other natural disasters. In such cases, the people's committees and the security services took nationwide action to trace them. After the unprecedented floods of 1995, for example, old people deprived of their homes had been housed with close relatives or taken into old people's homes and orphaned children had been sent to orphanages, baby farms or special schools.
24. Replying to question 8 concerning the death penalty and alleged public executions, he listed the five offences that still carried the death penalty: conspiracy against State power, high treason, terrorism, anti-national treachery and aggravated intentional homicide. In the case of conspiracy against State power, it was imposed on the instigator, mastermind or principal culprit in an armed revolt to overthrow the Republic; in the case of high treason on a citizen who defected to a foreign country for the purpose of overthrowing the Republic; in the case of terrorism on a person found guilty of an extremely serious offence of terrorism against cadres and patriots with a view to opposing the Republic; in the case of anti-national treachery on a Korean national who opposed the national liberation and revolutionary struggle in collusion with imperialists and acting under their control, or who betrayed the Korean nation by selling its interests; in the case of aggravated intentional homicide on a person who committed murder out of greed, jealousy or other base motives or in order to conceal a serious crime, murder by brutal means or means that endangered the lives of a number of persons, or the murder of one or more dependants or persons entrusted to his or her care. Of the 15 death sentences handed down since 1998, 13 had been carried out and 2 commuted. The only public execution in the DPRK had been carried out in October 1992 at the unanimous request of the inhabitants of the area where the crime had been committed. The executed man, who had habitually resorted to acts of violence, had been sentenced to death for the brutal murder of his grandparents.
25. Replying to question 9, he said that allegations that torture and acts of ill-treatment were common in labour reform institutions and detention facilities were unfounded. Torture and ill-treatment were prohibited by the Criminal Procedures Act, the Regulation on Detention Chamber Administration and other laws, which were strictly implemented in practice.

Individual law enforcement officials had been known to beat inmates who breached prison regulations. The officials concerned were invariably subjected to criticism or punishment. Since 1998, six complaints of torture or ill-treatment had been lodged and administrative punishment had ensued in all cases.

26. Replying to question 10 (a), he said that individuals could be placed in reform institutions for 12 anti-State crimes such as conspiracy against State power, espionage, subversion and sabotage; 41 economic crimes such as stealing State property, fraud, misappropriation of funds, smuggling, breaches of anti-pollution legislation, breaches of the regulations on labour safety technology and traffic offences; 6 crimes of impairment of culture such as medical malpractice and drug abuse; 38 crimes of violation of public order and administration such as divulgence of secrets, negligence of duty, ignoring a complaint or petition, delinquency and gambling; and 21 crimes of impairment of life and property such as murder, defamation, rape, plunder of private property and fraud. The term of confinement in a reform institution ranged from 6 months to 15 years, the average term being 3 years. There were three institutions, which had housed 1,153 inmates at the end of 1998, 3,049 at the end of 1999 and 1,426 at the end of 2000.

27. Replying to question 10 (b), he said that allegations concerning the existence and operation of so-called secret "prison camps" had been fabricated by elements bent on slandering the Democratic People's Republic of Korea.

28. Replying to question 10 (c), he said that the Regulation on Reform Administration, which laid down the conditions governing detention in reform institutions, was strictly implemented. The institutions were equipped with bedrooms, bathrooms, dining-rooms, workshops, education rooms, libraries, infirmaries and other facilities, as well as with natural and electric lighting, ventilation and heating. The inmates were provided with meals, drinking water, clothing, bedding and health care. Doctors checked their physical condition and provided appropriate medical treatment free of charge. Reform institution officials received special training and were prohibited from torturing or insulting inmates. There was an eight-hour working day and inmates were paid according to the quantity and quality of their work. They had access to books, magazines and newspapers, could watch films and television, listen to the radio, play games or engage in sport. They were visited by and corresponded with their family and relatives. Inmates who sincerely repented, conscientiously observed the rules and worked hard to fulfil their labour assignment could have their term commuted.

29. Replying to question 10 (d) concerning access by the International Committee of the Red Cross to detention centres and reform institutions, he said that the DPRK attached importance to dialogue with international human rights and humanitarian organizations. An Amnesty International delegation had visited the country twice to inspect detention centres and reform institutions. But the authorities concerned were highly sensitive about such visits because of the tense political and military environment on the Korean peninsula and the blatant attempts of dishonest hostile forces in recent years to use human rights issues for political purposes.

30. Replying to question 11, he said that allegations that forced or compulsory labour was used for public projects were doubtless based on a misunderstanding. Major construction projects by soldiers of the People's Army, land development projects such as tree planting in the

spring and autumn, or practical training courses for students in factories and the countryside pursuant to the policy of combining studies with productive work could not be considered to constitute forced or compulsory labour, since the people involved were working for themselves and the community.

31. Replying to question 12 on pre-trial and preventive detention, he said that a person might be confined in a detention chamber if he/she was subject to preliminary investigation or accused of a crime liable to the death penalty or to imprisonment for one year or more. The purpose of the detention was to ensure that the suspect did not abscond, destroy evidence or commit a further offence. If none of those things was likely to happen, the suspect was not detained. A pregnant woman could not be detained within three months of her expected date of delivery, or for seven months after her child was born.

32. The decision to institute legal proceedings was made by a public prosecutor, who could order the release of an arrested person if it was unjustified. A person subject to legal proceedings was presented with a warrant giving the reason for his/her detention, and his/her family or organization was informed of the date of the arrest, the reason and other details. An accused person was treated as innocent until he/she was convicted, in accordance with the Regulation on Administration of Detention Chambers, and his/her human rights were guaranteed.

33. Pre-trial detention could take the form of house arrest or confinement to the person's town or village of residence. House arrest had to be supervised by at least two warrantors, and the person concerned was required to sign a written agreement to abide by its conditions.

34. There was no system of preventive detention in the Republic. Preventive detention had been used during the period of Japanese colonial rule, and had been abolished when the DPRK had regained its independence.

35. Replying to question 13 concerning travel restrictions, he said that citizens needed a travel permit to go to the Military Demarcation Line (the border with the Republic of Korea), military bases, munitions factories and other restricted areas. Only people on official business or those visiting relatives were allowed to travel to those areas. Permits were also required for travel within the rest of the country, but they could be obtained without restriction. The permit system was necessary to guarantee national security and thwart the activities of spies and saboteurs.

36. Citizens were free to travel abroad with a permit issued by the Ministry of Foreign Affairs or the immigration authorities. They were not permitted to travel if they were criminals, insane or suffering from a communicable disease, or if they did not have permission from the country of destination. In 1998, 65 of 17,440 applications to travel abroad had been refused. One of the applicants had been implicated in a crime, and the rest had not received permission from the country of destination. In 1999, 104 of 29,875 applications had been refused. Two of the applicants had suffered from mental illness or a communicable disease, and the remainder had not received permission from the country of destination. In 2000, 35,650 people had applied, and 91 had been refused because of failure to obtain permission from the country of destination.

37. In reply to question 14 concerning the treatment of citizens who were forcibly returned to the Republic, he said that it was accepted, both in law and in practice, that some people sought refuge in other countries. Those who were repatriated or extradited under bilateral agreements were investigated to ensure that they had not been involved in smuggling or other crimes and, if not, no action was taken.

38. The question referred to seven refugees who had been returned to the Republic by China in January 2000. The true figure was six. Two of those concerned, Ho Yong Il and Pang Yong Sil, had been convicted of theft from and arson of a warehouse in North Hamhung province in June 1999, which had caused damage amounting to 1 billion won. On their return to the Republic, they had been sentenced to corrective labour for nine years and five years, respectively. The other four were: Ri Dong Myong, now working in a gymnasium in Pyongyang City; Zang Ho Yong, now working in a furnishings factory; Kim Kwang Ho, now a construction worker in Hamhung City; and Kim Sung Il, a minor who had returned to secondary school.

39. Mr. AMOR thanked the delegation for its report and for its full and clear replies to the questions raised by the Committee. However, it was regrettable that the report did not contain more information about the actual situation in the State party, rather than its legislation. The Committee had received reports from a number of sources which indicated that the human rights situation in the DPRK was less than satisfactory; they were perhaps exaggerated, but they were detailed and mutually consistent. He was concerned in particular about reports of forcible repatriation, the death penalty, and detention and prison conditions. The Committee was not accusing the Government: it merely wished to understand the true situation.

40. Another cause for concern was the apparent elasticity of many of the legal rules and concepts in the State party's legal system. The death penalty, for example, appeared to be applicable to a very wide range of crimes. Justice came from the law, and the law must be precise.

41. He asked about the position of the Covenant in the legal system. Was it true that the Supreme People's Assembly had adopted a standard interpretation of the Covenant, which was binding on the courts? Did the courts apply the Covenant itself, the interpretation by the Supreme People's Assembly, or pertinent provisions of national legislation? What scope did a judge have to interpret the provisions of the Covenant in relation to a particular case? Some of the State party's legislation was very different from the Covenant, such as the regulations governing internal travel, which the delegation had described.

42. He did not understand the position of non-governmental organizations in the State party. Social and professional organizations had been set up in the 1980s and had developed a complaints procedure during the 1990s, but did they satisfy the Committee's definition of NGOs: independent organizations for the defence of human rights? How many such organizations were there, what exactly did they do and under what conditions did they operate? Were foreign human rights organizations allowed to operate in the Republic?

43. He was concerned about the broad definition of capital crimes (paragraph 35 of the report). Although the death penalty had been carried out only rarely in recent years, the five offences for which it could be imposed covered a very wide range.
44. The delegation had stated that six cases of torture had been recorded since 1998 and that the perpetrators had been punished. However, even the most democratic countries reported many hundreds of cases of torture, violence and other cruel, inhuman or degrading treatment of a kind prohibited under article 7 of the Covenant. He would welcome further information from the delegation on that point.
45. He wished to be given more information about the detention of suspects and accused persons. If individuals were arrested by the police, how long could they be held in police custody before being taken before a court - 24 hours, or 48 hours, or two months, or some other period? Did the suspect have access to a lawyer or a physician during that time, and was he/she informed of the alleged offence? When individuals had been accused of an offence, how long could they be held in pre-trial detention? What guarantees of their rights were provided during that time, and how did they prepare their defence? How did the State guarantee the provisions of article 14 of the Covenant (right to a fair trial)?
46. The delegation had stated that forced labour did not exist: however, the examples given were of voluntary work, which was not the same thing. He failed to see how the "reform through labour" described in paragraph 55 of the report differed from forced labour.
47. Mr. SCHEININ welcomed the members of the delegation, whose wide range of expertise would be most valuable to the Committee, given the paucity of information about the State party available from other sources. It was regrettable, however, that the report before the Committee was only the second periodic report, even though the DPRK had acceded to the Covenant in 1981.
48. He welcomed the State party's declared commitment to the abolition of the death penalty (paragraph 40 of the report). What further steps did it intend to take to achieve full abolition? He was concerned that capital offences (para. 35) were much wider in scope than the "most serious crimes" referred to in article 6 of the Covenant. Four of the five were political crimes, i.e. crimes against the State rather than crimes against the life or physical integrity of a human being. He was particularly concerned about the mandatory death penalty for attempts to "suppress and persecute the national liberation struggle" (Criminal Code, article 52) and the possibility of the death penalty for defection (Criminal Code, article 47). The latter provision was surely not compatible with article 12 (2) of the Covenant on the right to leave any country, including one's own. The delegation had given details of death sentences imposed since 1998: on what grounds had they been imposed?
49. According to paragraph 24 of the report, there was no legislation governing the proclamation of a state of emergency. However, under article 103 of the Constitution, the National Defence Commission, the highest military authority, could proclaim a "state of war". How did the State party justify the fact that a state of war could be declared by a military authority, when it would presumably affect the normal operation of society and decision-making bodies?

50. Paragraph 24 referred to an interpretation of article 103 of the Constitution by the Presidium of the Supreme People's Assembly, stating that the "non-derogative" rights of citizens could not be restricted even in a state of war, which presumably meant that other basic rights might be restricted in such circumstances. However, the Constitution itself contained no provision for the restriction of any rights during a state of war. He would welcome the delegation's comments on that point. Were "non-derogative" rights the same as those covered by article 4 (2) of the Covenant?

51. Article 83 of the Constitution stated that work was the "noble duty and honour of a citizen" and that "citizens shall willingly and conscientiously participate in work". Did those statements constitute a legal obligation and, if so, did any laws exist to implement it? Did a failure or refusal to comply with such an obligation constitute a crime punishable by forced labour or some other penalty?

52. He asked for more details of the State party's interpretation of article 9 (3) of the Covenant on the right to a fair trial. Within what time period must a person in police custody be brought before a judge? From his study of the Criminal Procedures Act, it might be as much as 8 days, which was certainly not compatible with article 9 (3). Article 65 of the Criminal Procedures Act referred to the "arrest" of a suspect: did the term "arrest" refer to the moment when the suspect was apprehended, or to a formal step taken by the police at some subsequent time?

53. Mr. ANDO expressed his gratitude to the delegation for providing information about the legal system of the DPRK in booklet form. He shared Mr Scheinin's concern that the second periodic report was so long overdue. Under the Covenant system, the Committee should have the opportunity to consider the human rights situation in States parties at regular intervals, on the basis of their reports. Unless the reports were submitted regularly, the value of doing so was limited. Moreover, there was little information in the report about the human rights situation on the ground in the DPRK, nor was much information forthcoming from non-governmental or other sources. It appeared from the Constitution that considerable emphasis was placed on the collective side of rights and obligations in the DPRK, rather than individual human rights. For example, article 10 of the Constitution stated that the DPRK "rests on the politico-ideological unity of all the people based on the worker-peasant alliance led by the working class". Article 11 stated that the DPRK "shall conduct all activities under the leadership of the Workers' Party of Korea", and article 12 that the State should "firmly defend the people's power and socialist system against all subversive acts of hostile elements at home and abroad". He emphasized that human Rights were individual rights and democracy entailed freedom of choice: individuals should be able to choose their own value systems, and their choice should be respected. Did the collectivist approach to human rights, as defined in article 63 of the Constitution, affect the interpretation or application of domestic law provisions reflecting articles of the Covenant? According to the Treaty Law of December 1998, the status of the Covenant in the DPRK was supposed to be the same as that of domestic law. However, no explicit constitutional provision defined the relationship between international treaties and domestic law. Did that mean that the status of the Covenant and its relationship with domestic law could be altered by legislative action in the national assembly? The Constitution referred to states of war, but not to states of emergency, which was a much broader concept. Did that mean that the treaty law of the Covenant (art. 4) could be applied in a state of emergency?

54. The Criminal Law was very broadly framed and its provisions were open to abuse and discretionary interpretation. According to article 50, "a person who commits acts of subversion and sabotage against the country shall be committed to a rehabilitation institution for between five and eight years", and "a person who causes damage to the establishment and facilities of special importance ... shall be committed to a rehabilitation institution for not less than eight years". The offences were defined in the broadest terms. The same was true of article 47, which referred to "cases where the person commits extremely grave offence". The second periodic report did contain, in paragraph 35, a definition of five categories of "extremely grave" crimes. However, article 141 of the Constitution referred to murder committed in order "to conceal a serious crime". It was unclear whether that meant the same type of offence as specified in paragraph 35 of the report. Moreover, various of the crimes mentioned in the Criminal Law did not seem to carry a penalty with an upper limit. Article 50 referred to "not less than eight years", and article 53 to "not less than five years". What was the maximum term under those provisions? By contrast, articles 141 and 143 did specify upper limits of 10 and 3 years, respectively, for murder with extenuating circumstances, and homicide.

55. Article 53 of the Criminal Law referred to a person who was not a citizen of the DPRK and who "commits the hostile act of attempting to suppress and persecute the national-liberation struggle of the Korean people ... and the struggle of overseas Koreans for their democratic national rights and their legitimate rights under international law". The criminal jurisdiction of the DPRK could not extend to activities carried out abroad by non-citizens. Article 121 of the Criminal Law made it an offence to conceal an offender: did that apply, for instance, to a father concealing a son or daughter? Were there any mitigating circumstances for members of the same family?

56. According to paragraph 47 (b) of the second periodic report, the duties of the public prosecutor, under articles 69 and 79 of the Criminal Procedures Act, included supervising the preliminary investigation. Those articles placed no obligation on the public prosecutor to indict a person responsible for irregularities committed in the course of the investigation. Surely he had a duty to do so. The same remark applied to paragraph 47 (c), read in conjunction with article 296 of the Act, which placed no obligation on the public prosecutor to supervise the execution of judgments so as to prevent torture or inhuman treatment or punishment of prisoners.

57. Freedom of travel and residence for both citizens and foreigners was discussed in paragraphs 76 and 77 of the report. According to information he had received, a French aid group had left the DPRK after being denied permission for a field trip to ascertain that donated food supplies had reached their intended recipients. Why would permission be refused in such a case?

58. Mr. YALDEN agreed with Mr. Amor that the report contained little factual information about the human rights situation on the ground, and reminded the delegation that the Committee's concern was with the actual situation, as well as theoretical rights. On the payment of compensation to victims of illegal arrest and detention, mistreatment, torture and unlawful execution, how many times had compensation been granted, on what grounds, and in what amounts? The death penalty was apparently still in force in the DPRK for five categories of "extremely grave" crimes. What was the situation with regard to political offences: were they treated as being among the "most serious crimes" referred to in article 6 (2) of the Covenant?

What was the meaning of "anti-national treachery", mentioned in paragraph 35 of the report? In his view, article 52 of the Criminal Law did not shed much light on the matter by referring to "a Korean national who attempts to suppress and persecute the national-liberation struggle ... in collusion with imperialists". He would be glad to know precisely which offences carried the death penalty.

59. Paragraphs 76 and 77 of the report referred to tight restrictions on freedom of travel and residence. Travel within the country was subject to permission being granted by "people's committees". The southern border area and areas adjacent to military bases were out of bounds altogether. He invited the delegation to explain how those restrictions met the requirements of article 12 of the Covenant on liberty of movement. Paragraph 17 of the report described the procedure for submitting complaints of human rights violations. What sort of complaints were, submitted, how many, and what was done about them? The number of complaints about ill-treatment in institutions of which the Committee had been told - only six - struck him as peculiarly small in view of the size of the country. The question about independent human rights monitoring bodies (question 4 in the list of issues) had not been satisfactorily answered: there did not seem to be any statutory provision for such bodies in the DPRK. The delegation was undoubtedly aware of the intensive work which had gone on since 1993 to develop such institutions, on the basis of the "Paris principles" approved by the General Assembly. The few non-governmental organizations in the DPRK, such as the Bar Association, did not meet those standards. Were there any plans to establish independent monitoring bodies? The "complaints box" system practised within institutions in the country did not ensure the necessary degree of independence to monitor the observance of Covenant rights.

60. Ms. CHANET shared the concern of other members of the Committee about the patchy information provided in the report. It was not clear to what extent the Covenant had been incorporated in the domestic law of the DPRK. Nor was it clear how the State complied with its undertaking, in paragraph 26 of the report, not to "tolerate any interpretation that restricts the rights and freedoms set forth in the Covenant", or how Covenant rights were interpreted in parliament or by the courts, given that they were not incorporated in the Constitution. What was the hierarchy of norms concerning human rights? Why were some Covenant rights guaranteed by the Constitution, and others not? If the Supreme People's Assembly decided on a certain interpretation, would it be binding on the courts? Chapter V of the Constitution conferred rights on "citizens"; did that mean that foreigners could be denied them, contrary to article 2 of the Covenant? She agreed with Mr. Amor that the criteria for the death penalty were very elastic, when compared with the rule in article 6 of the Covenant. The criteria set out in article 52 of the Criminal Law were especially vague. What were the "extremely grave" offences referred to in article 47? The scope for definition appeared to be designed to protect the interests of the State. What was the permitted length of preventive detention and of custodial sentences? Did the period of 48 hours mentioned in paragraph 61 of the report correspond to the period of pre-trial detention, and how did it square with the rule in article 9 (2) of the Covenant? Were individuals ever detained without criminal charges being brought against them? Some penalties specified in the Criminal Law appeared to have no ceiling: did that mean that unlimited sentences could be imposed, or could final judgments be reviewed, and if so by whom? What time limits applied to the stages of prosecution described in paragraph 61 of the report? According to article 51 of the

Criminal Procedures Act, the criminal procedure began with a decision by an investigator: what was the status of such persons? Were they members of the prosecution service and were they separate from the police? According to article 17, a criminal defendant had a right to a lawyer: at what point in the procedure did that right come into effect? Were lawyers free to organize their clients' defence as they saw fit? Were they civil servants or self-employed, and how was the criminal bar organized? How was the imposition of the death penalty under article 47 of the Criminal Law compatible with the relevant provision of the Covenant? Concerning article 13, paragraph 82 of the report made no mention of a procedure for deciding on the expulsion of an alien. Could an expulsion order be appealed?

The meeting rose at 6.10 p.m.



**International covenant
on civil and
political rights**

Distr.
GENERAL

CCPR/C/SR.1945
30 October 2001

ENGLISH
Original: FRENCH

HUMAN RIGHTS COMMITTEE

Seventy-second session

SUMMARY RECORD OF THE 1945th MEETING

Held at the Palais Wilson, Geneva,
on Friday, 19 July 2001, at 10 a.m.

Chairperson: Mr. BHAGWATI

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 40 OF THE COVENANT (continued)

Second periodic report of the Democratic People's Republic of Korea (continued)

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GE.01-43636 (E) 011001 301001

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Second periodic report of the Democratic People's Republic of Korea (CCPR/C/PRK/2000/2;
CCPR/C/72/L/PRK) (continued)

1. At the invitation of the Chairperson, the delegation of the Democratic People's Republic of Korea took places at the Committee table.
2. The CHAIRPERSON invited the Committee to resume its consideration of the second periodic report of the Democratic People's Republic of Korea and to put supplementary questions on paragraphs 1 to 14 of the list of issues (CCPR/C/72/L/PRK).
3. Mr. KLEIN said that the information provided was not adequate and the Committee needed fuller information both from the State party and from other sources. It was regrettable that the country's lack of openness did not permit verification either of the Government's statements or of statements by other entities, which would be the best way of putting an end to any misunderstandings or doubts that might persist.
4. Regarding the compatibility between the country's Constitution and the Covenant, he wished to take up the expression, "human rights Korean-style", which the head of the State party's delegation had used in his opening statement. He wondered whether that concept was not contrary to the principle of the universality of human rights. Furthermore, article 12 of the Constitution enshrined the principle of the "dictatorship of people's democracy". Any idea of dictatorship surely ran counter to the very concept of freedom. Articles 9 and 14 of the Constitution, which spoke of the complete victory of socialism, and article 23, which said that the State must strengthen the ideological consciousness of the people, also seemed to pose a problem from the point of view of the rights set out in the Covenant. The constitutional order of the Democratic People's Republic of Korea, which imposed a certain line of thought, therefore seemed to be in contradiction with articles 19, 21, 22 and 26 of the Covenant.
5. Concerning the right to life (art. 6 of the Covenant), he pointed out that States parties were required to protect life, including in cases of natural disasters, and referred in that connection to the Committee's General Comment No. 6 on article 6. The State party could perhaps have been more open so as to secure assistance and save lives. There were many reports of extrajudicial executions in prison camps, which the delegation had denied, but he would emphasize that the deaths of prisoners due to lack of food and to living conditions in the camps were in effect extrajudicial executions and thus constituted violations of articles 6, 7 and 10 of the Covenant.
6. As for disappearances, he wanted to know whether the families of persons arrested were informed of the arrests and whether the Standard Minimum Rules for the Treatment of Prisoners, which the State party said it recognized, were really applied. Rule No. 7 stated that prisoners had to be entered in a central register. He wondered whether the Democratic People's Republic

of Korea had such a register to which the population could have access. He also asked whether the State party observed Rule No. 20 concerning food, Rules Nos. 22-26 concerning medical services and Rule No. 37 concerning contact with the outside world.

7. He would also welcome information regarding what was stated in paragraph 64 (a) of the second periodic report. He would like to know whether a decision by the public prosecutor could be challenged in the courts, in accordance with article 9, paragraph 4, of the Covenant. As for freedom of movement (art. 12 of the Covenant), the State party would seem to have made the exception into the rule by systematically imposing the restrictions referred to in article 12, paragraph 3, and that was unacceptable. He pointed out that restrictions must be compatible with the rights laid down in the other articles of the Covenant, and specifically article 26. He wondered whether the delegation considered current practice to be in conformity with the provisions of the Covenant or whether it was a case of interpreting human rights "Korean-style".

8. Mr. SOLARI YRIGOYEN welcomed the efforts made by the Democratic People's Republic of Korea to open up to the world. He regretted that such a long time had elapsed between the submission of the State party's first two reports. That had complicated the Committee's task because it was difficult to judge the progress over such a long period. He also regretted that the second periodic report made no reference to the difficulties which the State party encountered in implementing the Covenant.

9. As for the right to life, the Democratic People's Republic of Korea stated that it followed the ideal of Juche. That ideal was challenged by many reports, and particularly those submitted by Christian communities. He would like the delegation to specify whether it was an official doctrine which had to be accepted by everyone or whether it was possible not to adhere to it. He would also like to know who lay at the origin of the philosophy, who was responsible for disseminating it in the country and whether those who did not accept it were prosecuted.

10. The report stated that there was no problem of disappearances, which could not but be welcomed if it was really the case. In any event, it was stated that cases of disappearance were easily checked through the people's committees which administered the population. It would be useful if the delegation could provide some details regarding the nature of those committees, their composition and the way in which their members were appointed, and could indicate how far the committees' activities were compatible with article 17 of the Covenant concerning the protection of privacy.

11. Paragraph 42 of the report stated that torture and other forms of coercive interrogation were recognized as a crime against which criminal proceedings must be instituted, and cited article 129 of the Criminal Law. The delegation might perhaps explain why the article of the Criminal Law which was supposed to crack down on torture did not even mention it. Non-governmental organizations had reported cases of torture and other maltreatment inflicted by the security forces and the existence of inhuman isolation cells, lack of food and the absence of medical care in prisons. He would like to have some details on the matter. It had also been pointed out that nationals of the Democratic People's Republic of Korea who had sought refuge in China and had been sent back to their country had been subjected to ill-treatment. The delegation might perhaps give some additional information on that subject, and say whether those responsible for the ill-treatment had been punished. It might also say what had happened

to Lee Sun Ok, whose family had reported his disappearance, and what had become of his wife. Also, the delegation had stated that a traveller's certificate was required as part of the procedure to deal with subversive elements and spies. He would like to know how many such persons had been tried and sentenced in the past five years and what sentences they had received. He would also like to know whether authorization was required to move residence from one place in the country to another.

12. Mr. HENKIN associated himself with the comments made and the questions put by other members of the Committee. He emphasized that the information provided would have been better if it had been more detailed. Thus, paragraph 17 of the report, which outlined the procedures applicable in cases of human rights violations, did not specify how many complaints were made every year, what the motives were and what compensation had been proposed.

13. The delegation might like to explain certain apparent discrepancies between the national legislation and the provisions of the Covenant. Of the five categories of crime for which the death penalty could be imposed, four were of a political nature. One wondered to what extent those crimes could be considered as "the most serious crimes" within the meaning of article 6 of the Covenant. There was also the question of whether the duration and conditions of detention could be justified under the Covenant. As for the notion of "human rights Korean-style", which seemed to be contrary to the principle of the universality of human rights, the Committee's task was particularly difficult when information provided by the State party was contradicted by information from other sources, particularly on questions as serious as torture, conditions of detention or extrajudicial executions, and it would be in the Government's interest to assist the Committee in throwing light on such contradictory information. In that regard, he asked the delegation to state whether representatives of the International Committee of the Red Cross had visited the country and whether the Government was open to such visits. It was also his understanding that visits had been made to the country by Amnesty International. But that organization had apparently visited the country only twice, the last occasion being in 1995. The delegation might want to make it clear whether Amnesty International had asked to pay a visit since that date and whether the Government had given a favourable reply. It might also indicate whether the Government had considered permanent representation in the country of Amnesty International or of other non-governmental organizations. It would be useful to know whether the authorities would agree to a visit by the Special Rapporteur on torture, for example, and by the representatives of treaty bodies such as the Committee on the Rights of the Child or the Human Rights Committee. As long as the Government did not accept visits from such impartial bodies, it would not be possible to agree about the facts and therefore to judge whether the Democratic People's Republic of Korea was fulfilling its obligations under the Covenant.

14. Mr. KRETZMER associated himself with all the remarks which had been made by Committee members. He wished to return to a few points which had already been raised in order to illustrate the Committee's unanimity regarding certain essential concerns. Firstly, while it was not the first time that the Committee found itself in a situation where a State party replied to allegations of human rights violations transmitted by reputable NGOs purely and simply by denying them, he pointed out that the case of the Democratic People's Republic of Korea was special in that it refused visits and independent inquiries by NGOs and the international

community on its territory. Transparency was the only guarantee of credibility. If the situation in the State party was really as described in the report, the State party had every reason to allow outside observers to visit and see for themselves.

15. He thanked the delegation for having communicated in writing, both in English and in French, the text of the head of delegation's speech, but he was astonished to read in it that the definition of human rights norms was left to the good will of the people and he wondered how that principle could be considered compatible with the Covenant. In fact, that philosophy was extremely problematical in itself, particularly when it was a case of the treatment of minorities, of whatever kind, or of political dissidents. If the people decided that minorities should be held in camps, for example, the decision would not find any justification under the Covenant solely because it came from the people. Under article 2, paragraph 1, of the Covenant, "each State party ... undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the ... Covenant".

16. He also referred to article 15 of the Covenant, whereby "no one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed." In that regard, he was astonished to learn that the State party's Criminal Law breached that provision by stipulating that, for offences not covered in the Criminal Law, sanctions would be imposed in accordance with the article of the Law covering an act of similar type and seriousness. It was also alarming to read in Chapter II of the Labour Law that, labour being the lofty duty of every citizen, workers must conform strictly to the labour discipline of socialism and were not free to leave their places of work without fulfilling certain formalities. It would be interesting to know the exact nature of those formalities, but, in any event, one could certainly question the veracity of the claim that there was no forced labour of any kind in the State party. Similarly, one might wonder whether the provision of the Labour Law whereby the position adopted by citizens was determined by their professional conscience did not lead to acts of discrimination based on so subjective a concept.

17. In conclusion, while States parties could not be held responsible for natural disasters that might occur on their territory, they had the obligation to do everything in their power to protect their populations in such circumstances. Bearing in mind the dramatic events that had taken place in the Democratic People's Republic of Korea and the ensuing famines, he asked the delegation whether the Government had accepted international assistance at the time and, if so, whether it had imposed conditions, including any of a political nature, on such assistance.

18. Sir Nigel RODLEY thanked the delegation for its presence and said he was particularly grateful that it had supplied the texts of various laws, which had been extremely useful. He was also in possession of information on the disappeared person to whom Mr. Solari Yrigoyen had referred. The authorities had apparently stated that he was still alive and on the State party's territory, and had endeavoured to prove that claim by allowing him to speak on the radio. In fact, his own mother was reported not to have recognized his voice and still doubted that he was alive. If the person who had spoken on the radio was indeed the person being sought, it would be very easy to dispel any doubts by having him take a DNA test to prove his identity.

19. Where public executions were concerned, the delegation had acknowledged that one public execution had taken place in 1992. According to numerous outside sources, however, there had since been others. Food thieves, for example, had been executed publicly every month during the famine. The delegation could perhaps shed some light on the subject.

20. He had found no reference to torture or any definition of the crime of torture in the Criminal Law. Did the State party intend to supplement its legislation with provisions inspired by article 1 of the Convention against Torture, thus bringing it into line with general international law? It was not in the State party's interest to ignore the question, since Committee members had received statements from individuals claiming to have been tortured in the Democratic People's Republic of Korea. On a personal note, he had met the representative of a highly renowned NGO in whom one of the victims had confided. From his experience as Special Rapporteur on torture, he was quite familiar with the issue and firmly believed the report transmitted to him, particularly since the victim had placed more emphasis on the humiliation of being naked in front of strangers than on the physical suffering he had endured through electric-shock treatment, water torture, being suspended, and having lost six teeth. Those events had allegedly occurred during pre-trial detention. He was also aware of the existence of what were known as camps Nos. 14, 15, 17, 22 and 23, and of a life-imprisonment camp. Camp No. 15 was sometimes referred to as "management centre No. 15". He would like to have clarification of those terms. Indeed, there was a tendency abroad to refer to those camps as prison camps or concentration camps. Were such claims slanderous? If so, the State party should justify its denials and explain the exact nature of the camps. But did the terminology used perhaps reflect the truth? The Committee also had in its possession several statements concerning allegations of arbitrary detention, poor detention conditions, and summary executions of prisoners who had tried to escape. That led him quite naturally to the question, raised earlier, of the lack of monitoring by independent bodies. Amnesty International had indeed been authorized to visit a reform centre in 1995, yet that hardly sufficed because a single visit was not necessarily representative and the visit had not been a genuine professional inspection meeting international standards, but simply a guided tour during which the inspectors had not been able either to speak to the detainees or to have access to documents. The State party argued that the allegations of ill-treatment and poor conditions of detention were unfounded and were part of a conspiracy to tarnish the country's image. It had the solution to that problem in its own hands: agreeing to inspections by international bodies was the only way of rendering its denials credible. In conclusion, he would like to know how many people had requested political asylum in the Democratic People's Republic of Korea, from what countries they originated, and what action had been taken with regard to their applications.

21. The CHAIRPERSON invited the delegation to reply to the additional questions put by Committee members.

22. Mr. SIM Hyong Il (Democratic People's Republic of Korea) thanked the Committee for its questions, which should make for better mutual understanding. To the question concerning the applicability of the Covenant, he replied that the provisions of the Covenant could be invoked directly in the courts, in which case it was for the judge to interpret them. They could also be interpreted in a legal document drafted by the Presidium of the Supreme People's Assembly, the supreme organ of the State, including when the need was felt to clarify national legislation in the light of the obligations contained in the Covenant. That right of interpretation

conferred on the Presidium in no way limited the Covenant's applicability before the courts: it had been provided for only in the event of incompatibility of a domestic law with an international human rights instrument, whether or not the latter was cited in the Constitution. As stated in paragraph 24 of the report, in the event of a state of emergency, Decision No. 10 of the Presidium of the Supreme People's Assembly provided that "the concrete legislation concerning the proclamation of a state of war and mobilization order shall be adopted separately in conformity with the actual situation of war. In this case, however, non-derogative rights of citizens may not be restricted." It was the National Defense Commission that had the authority to proclaim a state of war. That body was answerable to the Supreme People's Assembly and, as the supreme organ of military administration, it was responsible, under article 59 of the Constitution, for ensuring respect for the public interest and the defence of the social system in the motherland, excluding any foreign invasion. Under the previous Constitution, prior to the 1998 amendment, the decision to declare a state of war had lain with the Supreme People's Assembly. That had been an unrealistic provision in that it had required the agreement of more than 700 deputies. Given the situation into which the country had been plunged in 1994, at which time the Democratic People's Republic of Korea had been the victim of manoeuvres to stifle it militarily, politically and economically, marking the start of the worst period in its history, it had been unanimously felt that military power needed to be strengthened. That was how the National Defense Commission had come to be given more power in the new Constitution.

23. The Democratic People's Republic of Korea did not intend to abolish the death penalty in the near future. Such a measure could be contemplated only when the country was unified and provided there would be no more foreign aggression or hostilities between North Korea and South Korea. For its part, the Democratic People's Republic of Korea was doing its utmost to speed up the process for the resumption of normal relations with the rest of the world.

The meeting was suspended at 11.30 a.m. and resumed at 11.45 a.m.

24. Mr. SIM Hyong Il (Democratic People's Republic of Korea), replying to questions from Committee members, said that the Constitution made labour a prerequisite of the population's survival and that it was at once a right and a sacred obligation, two facets that were inseparable. Work was an obligation, but it was a moral one that could not be associated with forced labour. The Constitution was not a criminal law, and people who refused to fulfil their obligation to work were not punished under the law.

25. The Constitution contained terms such as ideological revolution, and the total victory of socialism, which reflected the idea of "Korean-style" socialism founded on the collectivist principle. That principle did not set the group against the individual, but on the contrary aimed to create harmony between group and individual interests. The community could not be envisaged without individuals, but nor could the individual dispense with the community. The two were organically linked, and community interests could not be compromised by individual privacy. There were those who did not always share the community's point of view, but such disagreements were rare and limited, and stemmed from lack of awareness. In any event, they were settled within the day-to-day life of the community.

26. Regarding the place of the Covenant in domestic legislation and the compatibility of the rights enshrined in that instrument with those contained in the Constitution, the rights set forth in article 4 of the Covenant were not specifically written into the Constitution.

27. The Constitution and the laws guaranteed the rights of foreigners. They could, nevertheless be subject to certain restrictions. For instance, foreigners did not have the right to vote and could not join the armed forces. All the rights of sojourn and residence of foreigners in the country were, however, set forth in the laws and regulations.

28. A question had been asked about the Juche ideal. Proclaimed by Kim Il Song in the early 1920s, it was a universal principle whereby human beings were masters of nature and society and the most precious beings in the world, and everything must be placed at the service of humankind. For more than 70 years, Kim Il Song had developed that ideal, which had been adopted and enriched by the great leader Kim Jong Il. Since the independence of the Democratic People's Republic of Korea, society had been transformed into a community in which the masses were the masters of society and of the means of production. That principle had been fully integrated into public life and accounted for the sense of unity that linked all the inhabitants. Notwithstanding the country's economic difficulties, the population was very close-knit and lived in harmony.

29. Replying to the questions concerning electoral procedures, the composition and activities of the "people's committees", and their possible interference with privacy, he said that those bodies exercised the power of the people at the provincial, district and county levels. They were the embodiment of the people's will and aspirations and ensured that their interests, as well as their rights against foreign intrusion, were protected. Far from interfering in the private lives of individuals, they protected them. Each committee comprised a chairman, a vice-chairman and ordinary members, who were directly elected by the people. Members who were also deputies to the Supreme People's Assembly were elected by their peers.

30. One Committee member had asked about possible discrimination between model workers and other workers. Model workers devoted themselves to the community and it was natural that they should be praised and respected. However, that principle could not be invoked as grounds for any discrimination, either in texts or in actions.

31. Committee members had referred to the cases of allegedly disappeared persons and the existence of "prison camps". Those assertions reflected very marked political positions and were particularly offensive. The authorities of the Democratic People's Republic of Korea had already repeatedly expressed their views on those matters in international fora; the delegation would not revisit what it deemed to be totally spurious declarations founded on hearsay. It could only repeat that there were no "prison camps".

32. Mr. JONG Song Il (Democratic People's Republic of Korea), replying to questions concerning the opening up of his country to representatives of non-governmental organizations, the International Committee of the Red Cross and other international organizations, said that his delegation could not agree with the Committee's comments on the subject, which were extreme and did not reflect the true situation. Since 1948 his country had developed relations with a great many States, which respected its sovereignty. It must be remembered, however, that for more

than 40 years it had been confronted by the United States' presence in the region. In particular, some 150,000 American soldiers had been stationed in the southern part of the Korean Peninsula and in Japan since the end of the Second World War. At the time of the cold war, the United States had sought to justify its presence by invoking the risk of an invasion by the Soviet Union or China. The cold war was over, the danger had passed, and the United States and Russia now saw themselves as strategic partners. Although there was no longer any justification for the American bases in the southern part of the peninsula, they had not been closed down. In view of that situation, the Democratic People's Republic of Korea considered its national security to be seriously threatened.

33. Questions had been asked about the Government's measures to remedy the food shortage. In that connection, it should be remembered that for 40 years the United States had been imposing unprecedented and extremely rigorous economic sanctions on the Democratic People's Republic of Korea. Furthermore, Americans returning home after a stay in the country were not allowed to take products out. There had also been the incident, some years previously, in which his national authorities' request for some major American or European corporations to build a large electric power plant had been refused, clearly on the basis of political considerations. In the field of human rights, in June 2001 the Japanese Government had refused a non-governmental organization of the Democratic People's Republic of Korea an entry visa for Japan to attend a meeting on the problem of "comfort women" and war victims in Asia and the Pacific. Representatives of non-governmental organizations of over 20 countries had been invited, but only those of the Democratic People's Republic of Korea had been refused entry into Japan.

34. Regarding the situation of the humanitarian organizations that provided food aid to the population, most of the competent United Nations bodies and major non-governmental organizations had opened offices in Pyongyang between 1987 and 1991. The general principle of the non-governmental humanitarian organizations was to refrain from routing aid through, or distributing it in, areas to which they had no access. Regarding the organization Action Against Hunger, to which one Committee member had alluded, the situation was not at all as described. In 1991, Action Against Hunger had applied to extend its activities to other areas so as to cover all of a specific region, and had also sought authorization to organize "soup kitchens". Access to certain areas of the country was restricted for understandable reasons of national security, and the Government did not allow humanitarian organizations to provide assistance in those areas. Also, the idea of a "soup kitchen" showed extreme arrogance and was at odds with the population's mentality. The conditions stated were not acceptable to the Government, which had told the representatives of Action Against Hunger that they could serve meals in premises equipped as a restaurant, but not in the street. The organization felt that since its conditions had been rejected it had no choice but to leave.

35. Mr. KIM Yong Chol (Democratic People's Republic of Korea), addressing the question of ill-treatment and torture, said that domestic legislation, and the Criminal Procedures Act in particular, prohibited any use of torture. Moreover, article 4 of the Criminal Procedures Act clearly enshrined human rights protection as a fundamental principle of any criminal procedure. Concerning torture to extract confessions, there were laws which provided that a confession obtained under duress was null and void. In addition, confession at the examination stage did

not suffice as proof of guilt. The examining magistrate must find other evidence in support of any such confession. The Democratic People's Republic of Korea considered torture and other coercive measures to be offences subject to criminal proceedings.

36. The Government had also put in place practical measures for preventing the use of torture. Hence, any examination by a magistrate had to be conducted in the presence of the public prosecutor, an attorney, defence counsel and the clerk of the court. The examination was also recorded on video tape. The public prosecutor oversaw the entire proceedings and carried out regular surveillance of detention chambers. Also, law enforcement officers received training to alert them to issues relating to respect for human rights. Allegations that torture was frequently used in the Democratic People's Republic of Korea could be attributed to anti-Government elements who spread rumours in order to destabilize the regime. Consequently, the Committee should not disregard that aspect of the real situation when it examined the status of human rights in the country.

37. Regarding conditions of arrest and detention, the Criminal Procedures Act called for persons placed in detention to be duly informed of their rights. Suspects were informed of their arrest when notified that criminal proceedings would be instituted against them. Under article 83 of the Criminal Procedures Act, detainees were informed of the charges at the moment of arrest. Families and relatives were apprised of the date of, and reasons for the arrest. The accused was informed of the charge in writing three days before the trial. Failure to fulfil that requirement meant that the trial would be deferred. Arresting officers were obliged to produce a warrant. Only in flagrante delicto cases was the need for a warrant waived. In that event, the public prosecutor was required to verify the lawfulness of the arrest within 48 hours. Suspects could be released if they guaranteed to appear in court.

38. The period of pre-trial detention was generally two months but could be extended in complex cases to allow time for checking the results of the preliminary investigation, in the interests of objectivity, a practice that made it possible to shorten a trial. A debate was currently under way to decide whether it was necessary to conform to international standards, including the United Nations Standard Minimum Rules for the Treatment of Prisoners, and so shorten the pre-trial detention period, or whether it was preferable to maintain the current procedure. The debate was continuing.

39. The task of the Office of the Public Prosecutor was to supervise investigations and examinations in order to ensure the regularity of the proceedings and respect for human rights. The Office had access to the files of accused persons and could interview them. It could take over a case if it had doubts about the objectivity of the bodies conducting the investigation or suspected them of involvement in the crime.

40. Sentences of reform through labour could last from six months to 15 years, which was generally the maximum sentence. However, in certain cases (recidivists, etc.) the sentence could be longer. Reform through labour was the most common sentence passed and was not to be confused with forced labour. Those subject to that regime had been tried in court and were serving their sentences. Detention conditions in reform institutions had been described in the written replies supplied by the Government. In the area of health, detainees were isolated on their arrival and underwent a medical examination. The reform institution's doctor examined

prisoners before and after their work. Any prisoner deemed to be in poor health had the right to a rest period of up to six days, or to be hospitalized. In cases of serious illness, the sentence was suspended until the person had been cured, and thus could be treated at home or in a hospital outside the reform institution. Medical treatment was administered by qualified professionals. In cases of mental illness, the reform institution convened a panel of three doctors. If the latter had doubts about the diagnosis, an expert from a psychiatric hospital intervened. In the event of a prisoner's death, his or her remains were returned to the family, along with any belongings.

41. Mr. RI Gi Sun (Democratic People's Republic of Korea) said that five articles of the Criminal Procedures Act governed the death sentence, a penalty imposed essentially for political crimes. The provisions concerning the imposition of the death penalty reflected the country's real situation. In reality, the Democratic People's Republic of Korea was a belligerent State currently enjoying a period of truce. It was in order to defend the sovereignty of the State and political, economic and cultural stability, a sine qua non of respect for human rights, that certain provisions relating to the death penalty were maintained. That being so, articles 31, 32 and 33 of the Criminal Procedures Act stipulated quite precise criteria for the imposition of the death penalty, and consequently there was no fear that it could be inflicted without due consideration.

42. The CHAIRPERSON said that the delegation of the Democratic People's Republic of Korea would be invited to furnish additional replies to Committee members' questions at the following meeting.

The meeting rose at 1.05 p.m.



**International covenant
on civil and
political rights**

Distr.
GENERAL

CCPR/C/SR.1946
30 October 2001

Original: ENGLISH

HUMAN RIGHTS COMMITTEE

Seventy-second session

SUMMARY RECORD OF THE 1946th MEETING

Held at the Palais Wilson, Geneva,
on Friday, 20 July 2001, at 3 p.m.

Chairperson: Mr. BHAGWATI

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 40 OF THE COVENANT (continued)

Second periodic report of the Democratic People's Republic of Korea (continued)

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GE.01-43654 (E) 240701 301001

The meeting was called to order at 3. 05 p.m.

CONSIDERATION OF REPORTS BY STATES PARTIES SUBMITTED UNDER
ARTICLE 40 OF THE COVENANT (agenda item 5) (continued)

Second periodic report of the Democratic People's Republic of Korea (continued)
(CCPR/C/PRK/2000/2; CCPR/C/72 L/PRK; HRI/CORE/1/Add.108)

1. At the invitation of the Chairperson, the members of the delegation of the Democratic People's Republic of Korea resumed their places at the Committee table.
2. The CHAIRPERSON invited the delegation to reply to questions raised by the Committee at the previous two meetings.
3. Mr. KIM Song Chol (Democratic People's Republic of Korea), responding to a question by Sir Nigel Rodley about alleged cases of torture in the Democratic People's Republic of Korea (DPRK), in particular the Li Sun Ok case, said that he had submitted a reply on behalf of his Government to Sir Nigel Rodley, in his capacity as the Special Rapporteur of the Commission on Human Rights on torture, on 9 December 1999. Yet Sir Nigel Rodley had raised the issue again in the context of the Human Rights Committee, an apolitical body, without mentioning that he had already received a reply. He found such conduct highly suspicious.
4. The CHAIRPERSON said that Sir Nigel Rodley was perfectly entitled to raise the question again in the context of the Committee.
5. Mr. KIM Song Chol (Democratic People's Republic of Korea) said that clarifications regarding the case had been provided on several occasions to various human rights bodies. In raising the issue again, Sir Nigel Rodley should have referred to the position of the Government of the DPRK on the matter. He suspected that there were ulterior motives for his uncooperative approach.
6. Mr. RI Gi Sun (Democratic People's Republic of Korea) said that article 47 of the Criminal Law bore no relationship to article 12 of the Covenant since its purpose was to punish those guilty of high treason who had defected to a foreign country with a view to preparing an armed revolt to overthrow the Republic or setting up terrorist organizations.
7. Article 53 of the Criminal Law was applicable to foreign residents who had committed a crime within the country or a hostile act against the Republic abroad, opposing independence and reunification or suppressing and persecuting the national liberation struggle. Such persons were subject to extradition pursuant to bilateral or multilateral agreements.
8. Article 121 of the Criminal Law was applicable to persons who concealed offenders, even if the offender was a family member. However, the courts were prepared to take special circumstances into account.

9. Compensation for illegal arrest, ill-treatment or unlawful punishment could be ordered by a judge. The victim's wages were paid in full for the period of unlawful detention and any property that had been attached was returned.
10. Persons charged with a criminal offence were entitled to choose their own defence counsel, subject to the approval of the court. They could appoint a family member, a relative, a lawyer or a member of the staff of their enterprise or organization to act on their behalf.
11. Mr. PAK Dok Hun (Democratic People's Republic of Korea) said that there were three independent human rights organizations in the DPRK. The Institute for Research on Human Rights, set up in 1992, carried out research aimed at the promotion and protection of human rights and the incorporation of provisions of international human rights treaties into domestic legislation. It also investigated the practical human rights situation in various sectors of society. On the basis of collective discussion and decision-making, the Institute submitted proposals to the organs concerned. It had contacts with international non-governmental organizations (NGOs) such as Amnesty International and the World Organization against Torture.
12. The Association for Assisting Handicapped Persons, established in 1998, carried out practical research, conducted social awareness campaigns and made recommendations to the bodies concerned. It maintained cooperative relations with Handicap International.
13. The Committee to Demand Compensation for Army Comfort Women and Victims of the Pacific War cooperated with international human rights organizations and attended meetings in Japan and the Philippines.
14. Travel certificates were required for security purposes owing to the precarious external situation but no restrictions were placed on citizens' right to travel.
15. Representatives of Amnesty International had twice visited the DPRK, inspecting reform institutions and conversing with the inmates. Invitations had also been issued to representatives of the World Organization against Torture and the Special Rapporteur of the Commission on Human Rights on violence against women. However, the authorities in the People's Republic had since become reluctant to agree to such contacts. One organization that had met the inmates of reform institutions and discussed the situation with local experts had issued a report that distorted the facts and alleged that a person had been shot on the border with the Russian Federation and transported in a coffin to the Democratic People's Republic of Korea. The story was a sheer fabrication. A photograph of the alleged victim taken the following year had been shown to the organization but it persisted in making false allegations.
16. Mr. O Chun Thack (Democratic People's Republic of Korea) said that no NGO dealt exclusively with complaints because the public complaints and petitions network maintained effective links between the highest organ of State power - the Presidium of the Supreme People's Assembly - and the smallest unit at the local level. All citizens were free to lodge complaints or petitions, up to the highest level, against any violation of their rights, such as unlawful legal

proceedings or penalties. Complaint boxes and registers were located in all public places. There were special procedures for complaining about the conduct of local officials. The body that received the complaint investigated the allegations carefully and impartially, recording the details in the register unless the complainant wished to remain anonymous. The case was then discussed at an advisory meeting of officials and the complainant was promptly notified of the results. No complainant was subjected to pressure. The whole process was monitored by the Cabinet and the central organs concerned. Where a complaint was not properly addressed or an official obstructed the complaints procedure, he or she was disciplined or prosecuted, depending on the gravity of the offence.

17. The CHAIRPERSON invited the delegation to reply to questions 15 to 29 of the list of issues relating to the jurisdiction, independence and impartiality of the Special Court and the People's Court; the extent to which legal proceedings were held in public; the rights of arrested or detained persons; reports of internal surveillance of citizens; the right to freedom of religion and worship; invocation of the Press Law to prevent the printing and dissemination of printed matter; application of the legislation governing public assemblies; procedures to allow the registration of independent political parties; "practical measures" to ensure the stable life of the family and measures to combat the abuse and ill-treatment of children within the family; measures to address unresolved family reunification cases; implementation of the provisions of article 25 of the Covenant; allegations concerning the trafficking of women; the principle of non-discrimination against women and the number of women in public life; dissemination of the report and the Committee's concluding observations; and human rights training courses for members of the judiciary, law enforcement officials and other public officials.

18. Mr. SIM Hyong Il (Democratic People's Republic of Korea), replying to question 15 concerning the jurisdiction of the Special Court and the People's Court, said that the Special Court was a central court divided into a military court, which heard cases involving members of the armed forces, and a railway court, which heard cases involving rail transport employees and persons who impeded the proper functioning of the railway system. The People's Court, Provincial Court and Special Court all applied the same principles and procedures under the Criminal Procedures Act, which ensured the independence and impartiality of the courts and guaranteed the right to appeal against their judgements.

19. Replying to question 16 concerning the right to a public hearing, he said that pursuant to article 16 of the Criminal Procedures Act, a trial could be closed to the public, totally or partially, where there was a danger that documents or information directly related to national security would be revealed or where there was a fear that the community might be adversely affected by the revelation of indecent pornographic material or base criminal acts. No trial had been closed to the public during the past three years.

20. Replying to question 17, he said that arrested or detained persons were served with an arrest warrant stating the charges against them and provided with a copy of the decision to place them in custody. The family of the arrested or detained person or the organization where he or

she was employed was notified, within 48 hours, of the time of and reasons for the arrest or detention. All detainees had access to legal counsel except when they waived their right to legal assistance. Access to counsel was granted from the moment when legal proceedings were instituted and a copy of the indictment was sent to the accused three days before the trial. If the indictment was not received in time, the trial was postponed.

21. Replying to question 18, he said that reports of internal surveillance of citizens' private lives were illogical since power was wielded by the masses of the people and the country's policies were framed in accordance with their will. Allegations of wiretapping and unlawful surveillance activities were rumours spread by those hostile to the DPRK and the socialist system.

22. Replying to question 19 concerning freedom of religion and worship, he said that many people who practised religion had been killed during the Korean War. Religion was dying of old age and young people seldom showed an interest in religious worship. Some 40,000 people still believed in religions such as Christianity, Buddhism and Chondogyo. Religion was completely separate from the State, which in no way interfered with religious observance or discriminated against any religion.

23. Replying to question 20, he said that article 48 of the Press Law had been invoked 30 times during the past three years to halt the dissemination of printed matter, primarily in order to prevent the disclosure of State and military secrets. Twenty-seven cases had concerned encyclopaedias, atlases and magazines and three had concerned books about military reconnaissance.

24. Replying to question 21 concerning public assemblies, he said that institutions, enterprises and organizations held numerous assemblies at the central, municipal, provincial, county and other levels, but very few demonstrations were organized. During the past three years, more than 600 assemblies and two to three demonstrations had been notified to the authorities each year. The holding of such gatherings was not subject to permission.

25. Replying to question 22, he said there were no statutory procedures for the registration of new political parties. If a proposal for the establishment of a new party was submitted, the procedures for its registration would be discussed.

26. Replying to question 23, he said that the DPRK had not found it difficult in the past to safeguard the stability of family life. However, the country's recent economic problems had led to instability. The State had therefore taken action to provide families with basic consumer goods, as reported in the delegation's reply to question 6 of the list of issues.

27. With regard to the ill-treatment of children, no case of abuse of children in schools, kindergartens or childcare facilities had been reported. However, some families treated their children harshly, since they continued to believe in the outmoded slogan "spare the rod, spoil the child". If such conduct was reported, the village community and the people's neighbourhood unit reprimanded or criticized the parents or legal guardians or took disciplinary action.

28. Replying to question 24 concerning family reunification, he said that separated families fell into two categories. The first consisted of families separated within the northern part of the Korean peninsula by the Korean war. To address that issue, the State had set up an address inquiry office immediately after the war under the people's security organ, which had made unremitting efforts to reunify countless families. The second category consisted of families separated by the division of Korea into two countries. The Government had put forward a number of proposals to deal with the problem, including family reunions and exchanges of correspondence. Since the historic inter-Korean Pyongyang meeting in June 2000 and the adoption of the North-South Joint Declaration, three rounds of exchange visits of separated families had been organized and agreement had been reached on additional visits and exchanges of correspondence, identification of the whereabouts of family members, and the establishment and running of meeting centres.

29. Replying to question 25, he said that all classes of people had an equal right to participate in the conduct of public affairs. However, persons sentenced to penal servitude were disenfranchised by a court decision. Persons certified as being without legal capacity and foreigners were also barred from participating in elections. No foreigner had sought access to public office. Candidates were recommended either by the electorate or by political parties or public organizations jointly or separately. Recommended candidates had to pass a qualifying examination at a meeting of voters, and to secure the approval of more than half of those present. An unlimited number of candidates could run for election in a constituency. Nobody suffered discrimination in political life or in access to public service on any ground such as race or sex.

30. Replying to question 26 on the trafficking of women, he said that there had been no cases of that practice in his country for 50 years. It was a relic of Japanese colonial rule which had been prohibited after national liberation.

31. Replying to question 27 concerning discrimination against women, he said that there was no discrimination, either in law or in practice. Women enjoyed special rights: they did not work night shifts and were not employed in arduous work such as mining. Women accounted for 48.4 per cent of the working population; over 70 per cent of workers in health care, commerce and childcare; 34 per cent of workers in education, communications and culture; and 15 per cent of workers in industry, agriculture and construction. They accounted for 20.1 per cent of the deputies in the Supreme People's Assembly, 21.9 per cent of the members of local people's assemblies and 10 per cent of officials at central government or ministerial level.

32. Replying to question 28 (dissemination of the State party report and the Committee's concluding observations), he said that the report had been distributed to ministries, commissions, local organs of people's power and public organizations such as the Youth League, the Women's Union and the Institute for Research on Human Rights. When the Committee adopted its concluding observations, they would be circulated to Government and law-enforcement authorities and to all the above-mentioned bodies, in order to canvass a broad range of public opinion about the measures needed to implement the Committee's recommendations. The concluding observations would also be publicized in the mass media.

33. Replying to question 29 concerning human rights training for public servants, he said that intensive short courses were held twice a year for officials working in the judiciary, administration and law enforcement. The courses included an explanation and discussion of the international human rights instruments and their application. The officials underwent longer periods of retraining every five years at a law institute.

34. Mr. SOLARI YRIGOYEN thanked the delegation for its replies. There was no ulterior motive behind the Committee's questions: its only aim was to ensure, in collaboration with the State party, that the provisions of the Covenant were observed. In the case of Yu Tae Jun, for example, the Committee had received information from another source and wished to check it with the State party.

35. Paragraph 85 of the report stated that trials were conducted by a judge and two people's assessors, who had the same competence as the judge and were elected by soldiers or employees of the relevant military unit or organization. What exactly did the people's assessors do and why were they elected in that way? Were they qualified judges?

36. The religious bodies referred to in paragraph 112 were mostly federations of Christians, Buddhists, followers of Chondogyo, etc. Why did those religions operate as federations? Were they prevented by law from operating as churches? How many places of worship were open in the Republic, and for which religions? Did religious leaders have to be citizens of the Republic, or could an Anglican or Roman Catholic bishop, for example, be appointed from abroad and obtain a residence permit? The delegation had stated that there were 40,000 religious practitioners. Did that figure cover just the main religions, or were smaller religious minorities included?

37. Was conscientious objection to military service permissible? Was there an alternative to military service and, if so, under what conditions was it performed?

38. Paragraph 121 of the report stated that the Government published many translations of world famous authors. Who decided which books were to be translated? Could groups of citizens or religious groups publish translations of foreign works and distribute them freely?

39. Paragraph 125 stated that anyone wishing to hold an assembly or demonstration must notify the relevant people's committee and the authorities responsible for security. What exactly was the people's committee? If the application was refused, did the individual have a right of appeal against that decision, and which body would hear the appeal?

40. Paragraph 129 of the report stated that there was no legislation providing for the formation of new political parties, given the lack of any need for new parties. However, if such a need should arise at some point in the future, would it be possible to form a new political party under the law as it stood at present?

41. Paragraph 132 stated that a public organization or trade union could be banned if it endangered State security or public order: which body made that decision, was it possible to appeal against it, and which body would hear the appeal?

42. Paragraph 137 stated that a couple who were not married were forbidden to live together. However, was it a criminal offence for a couple to do so? To what penalty would they be liable, and would the punishment be increased if they continued to live together after the penalty had been imposed?

43. The proportion of female deputies to the people's assemblies (para. 21) was encouraging, but full equality between men and women had not yet been achieved. What further measures were planned to increase women's participation in public life?

44. Mr. SHEARER thanked the delegation for its willingness to enter into a dialogue with the Committee. He asked whether the Juche idea was compatible with religious beliefs such as Christianity or Buddhism. Could a person be a good citizen and a Christian or Buddhist at the same time?

45. The Committee had received information alleging that religious practices were discouraged and believers persecuted. He asked the delegation for specific details of the extent of free religious worship. How many places of worship were open and functioning? Who managed the religious educational institutions referred to in paragraph 116? Were those institutions in contact with the outside world?

46. Mr. KHALIL reassured the delegation that the Committee had no wish to criticize or condemn. It welcomed the opportunity for a frank and constructive dialogue with the State party, which would identify problems in the human rights situation and help the DPRK to fulfil its obligations under the Covenant.

47. The Committee placed great value on independent sources of information besides the official reports submitted by States parties. He asked for more details of the Regulation on the Activities of Foreign Journalists (para. 120). The Government appeared to have complete control over the dissemination of information: how did it reconcile that situation with its commitments under article 19 of the Covenant (freedom of expression)? Were there any plans to relax the restrictions?

48. Turning to trafficking in women, he noted that the Committee had received information to the effect that such trafficking - by individuals, not by the State - still took place. What measures, other than purely legal ones, was the Government taking to protect women? Were the legal measures in force effective against trafficking?

49. Mr. LALLAH thanked the delegation for its replies, and hoped that even more information could be provided at a later stage.

50. He asked for more information about the position of the judiciary within the Republic's human rights system and its status in relation to the idea of Juche. In the description of State organs in the Constitution (arts. 87-162), the judiciary came last, even after the public prosecutor's office. Were any members of the judiciary also members of a religious group (Christians, Buddhists, etc.)?

51. Article 162 of the Constitution stated that the Central Court was accountable to the Supreme People's Assembly, or to its Presidium if the Supreme People's Assembly was not in session. He asked for details of cases where members of the judiciary had been held to account for their decisions. States parties must provide practical guarantees to ensure that the judiciary was independent, impartial and competent. In many cases, members of the judiciary were given security of tenure: however, judges in the DPRK were elected for five years only. Why was their term of office limited?

52. It had been reported that the authority ultimately responsible for interpreting the Covenant in the DPRK was the Supreme People's Assembly. Was that really the case? Generally, that task would be entrusted to the judiciary rather than to a political body.

53. According to article 129 of the Criminal Law, a person who, among other things, "reaches an unjust decision or judgement" could be imprisoned for up to two years. Did that mean that a judge who reached a verdict which was subsequently overturned on appeal could be sent to prison? No judge could be independent in such circumstances.

54. He was concerned about the apparent overlap between judicial and executive functions. For example, paragraph 64 of the report stated that the public prosecutor had the right to examine the lawfulness of an arrest or detention, which was properly the prerogative of a court, as stated in article 9 (4) of the Covenant.

55. Articles 169-177 of the Criminal Procedures Act covered the procedures for the defence of an accused person. However, it did not provide for the defence counsel to cross-examine witnesses. Was cross-examination possible in the legal system of the DPRK? Was all the evidence in the case collected at the time of the preliminary examination, so that the court merely reviewed the written evidence? He would welcome any more information the delegation could provide on the independence of the judiciary and its compatibility with the Juche idea.

56. Sir Nigel RODLEY referred again to the case of Li Sun Ok, who had defected to the Republic of Korea following an illegal visit to China. According to a letter from the Government of the DPRK, she had never been detained, her defection having been motivated by the deceitful inducements of her cousin Jang Hak Chun, an intelligence agent working in China for the Republic of Korea. A letter from her husband, Choe Jong Hak, stated that his wife had never been detained and there was no reason for her to defect to the Republic of Korea. Annexed to the Government's letter was a letter purporting to be from her husband, and a photograph of her husband, daughter-in-law and two children. The letter accused the Republic of Korea of abusing the "abducted citizen of a sovereign State" in order to slander the DPRK. He still had doubts, however, about the "abduction", having met a representative of an NGO in which he had confidence, who had met Li Sun Ok in circumstances which did not suggest she had been abducted.

57. He noted that, according to article 4 of the Constitution, the sovereignty of the State rested with "the workers, peasants, working intellectuals and all other working people". Were there any individuals in the DPRK who fell outside those categories, and if so, did they enjoy the rights laid down in the Constitution? Article 11 of the Constitution stipulated that the DPRK "shall conduct all activities under the leadership of the Workers' Party of Korea". Why was that role specified for the Workers' Party, and how could the Constitution or the law guarantee that that role would in fact be exercised, given that there was no other reference in the Constitution or the electoral law to the role of the party?

58. Mr. YALDEN noted that the second periodic report contained only two paragraphs about the situation of women in the DPRK (paras. 19 and 156) and that the reply given by the delegation to question 27 in the list of issues had not provided any additional information. Much more information was needed about the situation of women, especially with regard to their levels of seniority in employment, whether women working in industries such as transport and communications attained senior management posts, and whether men and women received equal pay for work of equal value.

59. Mr. ANDO, referring to paragraph 120 of the report, asked whether foreign newspapers and specialist periodicals were available in the original in the DPRK. Were they sold on the streets and in shops, and if so, how many copies were sold daily or weekly? How many foreign journalists, from which countries were working in Pyongyang, and could they interview local people without official permission? What foreign languages were taught in schools? On the question of freedom of assembly, covered in paragraphs 125-126 of the report, were there any instances where permission to hold a public assembly or demonstration had been refused and if so, on what grounds? What was the difference between the Bar Association and the Democratic Lawyers' Association, and why had the Committee received no information from any of the NGOs enumerated in paragraph 130 of the report? Paragraph 131 described two types of trade unions in the DPRK. What was the legal position of trade unions in State institutions: did they have legal personality, and were they independent of the Government? Were there any specific instances in which public organizations or trade unions had been banned for endangering State security or public order, as described in paragraph 132?

60. Mr. RIVAS POSADA said that more information was needed on a number of points in order to assess the human rights situation in the DPRK. For example, it was not clear from paragraph 24 to what extent a state of emergency would be allowed to restrict the rights of citizens, under the interpretation of article 103 (5) of the Constitution by the Presidium of the Supreme People's Assembly. What were the non-derogable rights of citizens in a "state of war and mobilization" as defined in article 103? Under the Covenant, restrictions on fundamental rights should be kept to a minimum. Did the interpretation by the Presidium carry binding force, or was it merely a legal opinion? There appeared to be a contradiction between the constitutional position in the DPRK and the quasi-universal system governing states of emergency and the restriction or otherwise of fundamental rights.

61. Mr. HENKIN pointed out that although the Covenant did not require the abolition of the death penalty, an increasing number of States were adhering to the Second Optional Protocol and were seeking to abolish capital punishment altogether. In the case of the DPRK, he noted that, according to the reply given to Mr. Scheinin's question about the death penalty, it had been retained for certain offences regarded as especially serious. That was not in line with the general trend, which was to impose other penalties for the most serious crimes, including those which would be regarded as political. He was also concerned at the lack of information about human rights in the DPRK from non-governmental sources. NGOs such as Amnesty International, whose 1995 report on the DPRK had given rise to Government objections, played a crucial role in providing the Committee with accurate and reliable information. They should be allowed to play that role in the DPRK.

62. The CHAIRPERSON invited the delegation to respond to the oral questions asked by members of the Committee.

63. Mr. KIM Yong Chol (Democratic People's Republic of Korea), answering the questions about religion, said that freedom of religion was guaranteed by article 68 of the Constitution. The State did not interfere with religious practice in any way, nor did it encourage any particular religious creed. However, there were relatively few religious believers or places of worship in the DPRK. Of the major creeds, Christianity was the largest, having about 10,000 adherents and about 400 priests. There were two Catholic churches, attended by about 3000 people. They were rebuilt structures, because all the churches had been destroyed during the war. In the case of Buddhism, there were about 10,000 adherents, 60 temples and 200 monks. The Chondogyo religion had 52 places of worship, about 40,000 adherents and 250 priests. Military service in the DPRK was voluntary, so the question of conscientious objection on religious grounds or for family reasons did not arise and was not provided for by statute.

64. Mr. RI Gi Sun (Democratic People's Republic of Korea), explaining the role of people's assessors, said that in the central, provincial and district courts they had the same functions and authority as judges. In the central court, they were elected by the Supreme People's Assembly, and in the local courts by the respective local people's assemblies. A tribunal usually consisted of one judge and two people's assessors, the role of the latter being to represent the people in a trial. The verdict of the court was decided by a vote of the members of the bench. The people's assessors, recruited from among workers, peasants and officials of enterprises, received special training in law to enable them to act objectively.

65. Concerning marriage, he emphasized that marriage partners were equal under the law and marriages must be registered. Marriage was regarded as the institution for creating a family and cohabitation was frowned upon. Only married couples received the social benefits associated with marriage. Polygamy was not allowed.

66. The judiciary played an important constitutional role. The position of a public body in the Constitution did not determine its role in practice. The central court was accountable to the Supreme People's Assembly, and local courts were accountable to the local people's assemblies. Judges elected by the Supreme People's Assembly had to have the trust of the people and not be vulnerable to bribery. A judge could be dismissed if he lost the confidence of the public. Under article 129 of the Criminal Law, a judge who handed down an unjust judgement could incur a

criminal penalty. That provision did not, however, mean that judges forfeited their independence; it was simply a means of ensuring that they complied with legal procedures. If they accepted bribes, they were prosecuted. The lawfulness of arrests was monitored by the public prosecutor. His role was to supervise the conduct of prosecutions, not to investigate crimes. Evidence was gathered at the pre-trial stage of a prosecution, but the facts were further investigated at the trial stage, with the participation of the public prosecutor, defence counsel, and witnesses. If there was insufficient evidence, the members of the court would carry out investigations on the spot.

67. Mr. PAK Dok Hun (Democratic People's Republic of Korea), in reply to questions by Mr. Khalil and Mr. Ando, said that apart from journalists from Russia, Cuba and China, there were about 30 press officers from foreign diplomatic missions in Pyongyang. They were free to visit in all parts of the country other than restricted areas and to interview local people. Children learned either English or Russian at school from the age of 11 years and, at the Institute of Foreign Languages, it was possible to study all of the official languages of the United Nations and others such as German. Although foreign newspapers were not available in the shops, they were brought into the country by import and export companies, and by academic and State institutions. Approximately 890,000 volumes of periodicals, of 18 000 different types, were imported every year, and stored mainly in educational institutions and libraries, where they were available for members of the public to borrow. Considerable efforts were also made to translate foreign periodicals and books.

68. Mr. SIM Hyong Il (Democratic People's Republic of Korea), in reply to a question by Mr. Solari Yrigoyen, said that, according to the Regulation on Guarantee of Assembly and Demonstration, persons wishing to organize assemblies or demonstrations were required to notify the people's committee and the public security organ of the district concerned three days in advance. Notifications should specify the purpose, date and time, place, organizer and size of the assembly or demonstration. The people's committee and the public security organ, once notified, laid down the conditions for the assembly or demonstration and assisted with security. If an assembly or demonstration hindered the maintenance of State security and public order, it could be controlled by the procedures provided for under the Law on Public Security Control, but public security officers could not otherwise interfere. There were three political parties, the Workers' Party of Korea, the Korean Social Democratic Party and the Korean Chondoist Chongu Party, which had been active for over 50 years. There were no other social forums interested in forming political parties, and consequently no statutory regulations existed for that purpose.

69. He acknowledged that the proportion of central government posts occupied by women was too low at 10 per cent, but pointed out that there were no restrictions on women's access to such posts by means of competitive examinations, open to both sexes. The Government planned to step up its efforts to enhance the status of women in the future. For more details concerning the situation of women, he invited the Committee to consult the forthcoming initial report of his Government to the Committee on the Elimination of Discrimination against Women.

70. In reply to a question by Mr. Khalil, he said that the authorities did not permit the trafficking of women under any circumstances. The phenomenon occurred in neighbouring countries but was not a major problem in the DPRK.

71. Responding to a question by Sir Nigel Rodley, he said that the emblem of the Workers' Party of Korea contained the different categories into which Korean society was divided, namely workers, peasants and working intellectuals. Servicemen, who belonged to an exceptional category, were the only other type of citizen. The leadership of the ruling Workers' Party was provided for in the amended Constitution of 1992, which was the result of public demand for change. The party aimed to synthesize the will of the people and to guide the work of State bodies accordingly. Party members were encouraged to take a leading role in activities conducted in accordance with that principle, and State bodies therefore acted independently of the party leadership.

72. Membership of the Korean Bar Association was confined to attorneys, while the Democratic Lawyers' Association also included judges, public prosecutors, public security officers, legal scholars and experts among its members. The fact that no information had been provided by NGOs in connection with the periodic report could be linked to the lack of NGO activity in his country, and he would raise that issue with NGOs on his return.

73. The CHAIRPERSON said that the dialogue with the delegation had been instructive and useful. The strength in numbers and quality of the delegation spoke volumes for the commitment of the Democratic People's Republic of Korea to the promotion and protection of human rights. It was essential that the rhetoric of human rights should now become a reality. Irrespective of a country's political structure, whether it was capitalist or socialist, human rights were universal, and were based on a comprehensive respect for human dignity. The searching questions asked by the Committee during the dialogue were not intended to criticize, but to draw attention to shortcomings in the area of human rights, so that the Government would be better placed to deal with any problems that arose.

74. The Committee derived information from a variety of external sources in an attempt to acquaint itself with the situation on the ground. It always tried to make sure that the information was from credible sources, and consulted the delegation before determining the reliability of reports. He welcomed the assurance given by the delegation that it would seek to discuss the shortage of information with NGOs on its return. It was regrettable that there had been a delay of seven years in submitting the report, although the Committee was aware of the circumstances that had led to the delay. He hoped that the next report would contain more detailed information, so that the Committee would be better able to assess the situation on the ground.

75. He shared all of the concerns expressed by members of the Committee in the course of the dialogue. In particular, it was difficult to ascertain the exact status of the Covenant within the domestic legal framework. It had become part of domestic law in 1988, pursuant to the Treaty Law, but there was no evidence that it took precedence over domestic law. He reiterated that in cases of inconsistency between domestic law and the Covenant, the latter must prevail. It

was disturbing to learn that women accounted for only 20 per cent of members of the Chamber of Deputies, and only 10 per cent of central government officials. The State party should make more efforts to increase the representation of women in both those areas. Despite the existence of a Law on Complaints and Petitions, there was no independent mechanism to investigate violations of human rights and to ensure that complaints came before the courts. The State party should set up such a mechanism as soon as possible. Pursuant to the Constitution, the appointment of judges was subject to review by the executive branch every five years, which raised questions about the independence of the judiciary. According to section 129 of the Criminal Law, judges could also be liable to criminal prosecution if they were considered to have taken an unjust decision. The requirement to apply for a traveller's certificate (paragraph 76 of the report) constituted a violation of the right to freedom of movement since, in the absence of guidelines for the issuing of certificates, there was considerable scope for arbitrariness. Another in violation of article 12 of the Covenant was the prohibition on foreigners leaving the country without permission. He expressed the hope that the State party would address all of the concerns raised in the concluding observations of the Committee as a matter of urgency.

76. Mr. SIM Hyong Il (Democratic People's Republic of Korea) said that the dialogue had been extremely fruitful and constructive. He expressed appreciation for the opportunity to promote understanding and cooperation between his country and the Committee.

The meeting rose at 6 p.m.